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**IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
FIFTH APPELLATE DISTRICT**

THE PEOPLE,

Plaintiff and Respondent,

v.

MARJOURIE PRICE,

Defendant and Appellant.

F045096

(Super. Ct. No. 107940-03)

OPINION

THE COURT*

APPEAL from a judgment of the Superior Court of Tulare County. Joseph A. Kalashian, Judge.

Elizabeth Campbell, under appointment by the Court of Appeal, for Defendant and Appellant.

Bill Lockyer, Attorney General, Robert R. Anderson, Chief Assistant Attorney General, Mary Jo Graves, Assistant Attorney General, and Wanda Hill Rouzan, Deputy Attorney General, for Defendant and Respondent.

* Before Buckley, Acting P.J., Cornell, J., and Gomes, J.

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Upon being placed on probation for possession of methamphetamine for sale, defendant, Marjourie Price, appeals. She contends certain conditions of probation imposed by the court are overbroad. We will affirm.

DISCUSSION

The court imposed conditions of probation that the defendant submit to search of her person, home or automobile at any time with or without a search warrant and that she submit to narcotic and alcohol testing at the direction of the probation officer.¹

Defendant contends the search and testing conditions are overbroad because they are not limited to a search for the purposes of discovering narcotics-related activity. This contention is specious. The conditions fulfill all three parts of the *People v. Lent* (1975) 15 Cal.3d 481, 486 test. They relate to the crime of which defendant was convicted. They relate to conduct which is or may be criminal. They deal with conduct which is reasonably related to future criminality. Moreover, given defendant's history of use of controlled substances, the alcohol testing provision is reasonable. "[E]mpirical evidence shows ... a nexus between drug use and alcohol consumption. It is well documented that the use of alcohol lessens self-control and thus may create a situation where the user has reduced ability to stay away from drugs." (*People v. Beal* (1997) 60 Cal.App.4th 84, 87.)

¹ The People argue that by failing to object to the conditions articulated in open court, defendant waived the right to later contest them, citing *People v. Welch* (1993) 5 Cal.4th 228. Defendant cites the concurring opinion of Justice Arabian in *Welch*, contending the waiver rule does not apply to constitutional guarantees. She also contends she did not receive proper notice of the conditions to be imposed. Because the oral pronouncement in open court referred to "chemical" testing and the subsequent written probation order specified alcohol and narcotic testing, we will assume, without deciding, there was no waiver.

Finally, we dismiss this concern by simply noting that similar provisions are uniformly upheld. (*People v. Mason* (1971) 5 Cal.3d 759, 764; *People v. Kern* (1968) 264 Cal.App.2d 962, 964-965.)

We conclude that the terms imposed as a condition of probation were reasonably designed to deter defendant from further criminality.

DISPOSITION

The judgment is affirmed.